

**EVIDENCE — DISCOVERY — Sanctions in general**  
**Revised 11/2009**

Rule 15.7 of the Arizona Rules of Criminal Procedure sets forth provisions for court-imposed sanctions for failure to make a disclosure required by Rule 15. "The court shall order disclosure and shall impose any sanction it finds appropriate, unless the court finds that the failure to comply was harmless or that the information could not have been disclosed earlier even with due diligence and the information was disclosed immediately upon its discovery." Rule 15.7(a), Ariz. R. Crim. P. The imposition and choice of sanction are within the discretion of the trial court. See, e.g., *State v. Jackson* 186 Ariz. 20, 24, 918 P.2d 1038, 1042 (1996). In determining whether to impose sanctions and what sanctions should be imposed, the court should consider "the significance of the information not timely disclosed, the impact of the sanction on the party and the victim and the stage of the proceedings at which the disclosure is ultimately made," Rule 15.7(a), Ariz. R. Crim. P., as well as any other relevant factor. *State v. Towery*, 186 Ariz. 168, 186, 920 P.2d 290, 308 (1996). Sanctions should be proportionate to the harm caused, and cure it to the maximum extent that is practicable. *State v. Krone*, 182 Ariz. 319, 322, 897 P.2d 621, 624 (1995). Furthermore, a trial court should seek to apply sanctions that affect the evidence at trial and the merits of the case as little as possible. *State v. Roque*, 213 Ariz. 193, 211, 141 P.3d 368, 386 (2006) (citing *State v. Fisher*, 141 Ariz. 227, 246, 686 P.2d 750, 769 (1984)).

Before an attorney may bring a motion for sanctions under Rule 15.7(a), the moving attorney must certify that he or she has made a good faith effort to resolve the discovery dispute without the intervention of the court. Rule 15.7(b), Ariz. R. Crim. P.;

*see also Roque*, 213 Ariz. at 211, 141 P.3d at 386 (“If a discovery dispute arises, the parties must make good faith efforts to resolve it.”).

If a party fails to comply with Rule 15.1 or 15.2, the other party is not required to make any further disclosure, except for information that tends to mitigate or negate the defendant’s guilt or as ordered by the court. Rule 15.7(c), Ariz. R. Crim. P.